

Appl. No. 09/489,791
Examiner: George Ledscher, Art Unit 2653
In response to the Office Action dated July 12, 2004

Date: October 11, 2004
Attorney Docket No. 10112361

REMARKS

Applicant thanks the Examiner for acknowledging Applicant's claim to foreign priority and receipt of the certified copy of the priority document. Responsive to the Office Action mailed on July 12, 2004 in the above-referenced application, Applicant respectfully requests amendment of the above-identified application in the manner identified above and that the patent be granted in view of the arguments presented. No new matter has been added by this amendment.

Present Status of Application

Claims 1-4 are pending in the application. Claims 3-4 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claims 1-4 stand rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Prior Art (APA) shown in Figs. 5-7 and pages 1-4 of the specification.

In this paper, claims 3-4 have been amended to correct syntax. Claim 1 has been amended to recite that the second buckling portion of the switch member is fitted on the first buckling portion of the clasping member. Support for this amendment can be found on page 8, first paragraph and Figs. 2(a)-(c) and 3(a)-(b).

Reconsideration of this application is respectfully requested in light of the amendments and the remarks contained below.

Rejections Under 35 U.S.C. 112

Claims 3-4 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Namely, the office action states that the phrase "can be withdrawn" is indefinite. Applicant submits that the amendments to claims 3-4 overcome said rejections.

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Rejection Under 35 U.S.C. 102(b)

Claims 1-4 stand rejected under 35 U.S.C. 102(b) as being anticipated by APA shown in Figs. 5-7 and pages 1-4 of the specification. Applicant respectfully traverses the rejections for at least the reasons as follow.

APA shows a conventional optical recording medium protection cassette comprising a switch member 27 and a clasping member 24. In APA, the switch member 27 is integrally connected at the clasping member 24. See page 2, lines 5-6 of the specification. Namely, the clasping member 24 is not provided with any buckling portion. As a result, the connection of the switch member 27 and clasping member 24 is apt to split after several repetitions of being bent. See page 3, lines 8-15.

APA does not teach or suggest an optical recording medium protection cassette comprising, *inter alia*, a clasping member and a switching member, the clasping member provided with at least a first buckling portion, and the switch member having a second buckling portion fitted on the first buckling portion, making said switch member rotate relative to the first buckling portion, as recited in claim 1.

MPEP 2131 prescribes that to anticipate a claim, a reference must teach every element of the claim. In this regard, the Federal Circuit has held:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

"The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 1 recites an optical recording medium protection cassette comprising, *inter alia*, a clasping member and a switching member. The clasping member provided with at least a first

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buckling portion. The switch member has a second buckling portion fitted on the first buckling portion, making said switch member rotate relative to the first buckling portion.

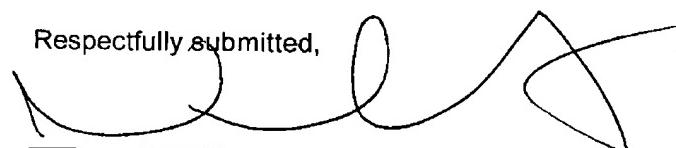
Unlike the prior art, in which the switch member is integrally connected to the clasping member, the second buckling portion of the switch member of the invention recited in claim 1 is fitted on the first buckling portion. Thus, the connection of the switch member and clasping member will not split during relative rotation therebetween. See page 9, lines 9-11 of the specification.

For at least these reasons, Applicant submits that APA does not teach or suggest each and every element set forth in claim 1 and should therefore be passed to issue. Insofar as claims 2-4 depend from claim 1, it is Applicant's belief that these claims are also in condition for allowance.

Conclusion

The Applicant believes that the application is now in condition for allowance and respectfully requests so. The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to Deposit Account No. **502447**. In particular, if this response is not timely filed, then the commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 C.F.R. § 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to Deposit Account No. **502447**.

Respectfully submitted,



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